

GRANT P. FONDO (SBN 181530)
GFondo@goodwinlaw.com
FARZAD FEYZI (SBN 343538)
FFeyzi@goodwinlaw.com
GOODWIN PROCTER LLP
601 Marshall Street
Redwood City, CA 94063
Tel: +1 650 752 3100
Fax: +1 650 853 1038

DARRYL M. WOO (SBN 100513)
DWoo@goodwinlaw.com
RACHEL M. WALSH (SBN 250568)
RWalsh@goodwinlaw.com
JESSICA HUANG FUZELLIER (SBN 315208)
JHFuzellier@goodwinlaw.com
DAVID RAPP-KIRSHNER (SBN 344494)
DRappKirshner@goodwinlaw.com
NICHOLAS C. WILEY (SBN 351161)
NWiley@goodwinlaw.com
COLETTE A. LOWRY (SBN 359889)
CLowry@goodwinlaw.com
GOODWIN PROCTER LLP
525 Market Street, Floor 32
San Francisco, CA 94105
Tel.: +1 415 733 6000
Fax: +1 415 677 9041

Attorneys for Defendant:
LINWEI DING

[ADDITIONAL COUNSEL LISTED IN SIGNATURE BLOCK]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

LINWEI DING,

Defendant.

Case No. 3:24-CR-00141-VC

**DEFENDANT LINWEI DING'S RESPONSE
TO COURT ORDER RE DEFENDANT'S
MOTIONS IN LIMINE 22-25 (Dkt. No. 292)**

**REDACTED VERSION OF MATERIAL
SOUGHT TO BE SEALED**

Judge: Hon. Vince Chhabria
450 Golden Gate Ave., SF, CA 94102

Pursuant to the Court’s Order Regarding Ding’s Motions in Limine 12-13, 16, 20, 21, 22-25 (Dkt. No. 292) dated December 29, 2025, Defendant Linwei Ding hereby provides the following explanations of relevance for documents he seeks to admit relating to the alleged trade secrets.

I. OVERVIEW

The documents listed below represent a concise set of public documents identified by Mr. Ding’s technical expert that show that the alleged trade secrets were publicly known, or assist in demonstrating that the alleged trade secrets do not have value for being kept secret.¹

First, as shown below, a number of these documents illustrate that the alleged trade secrets were publicly known as of the time of the charged conduct. These documents are relevant at least to whether the alleged trade secrets, in fact, qualify as trade secrets. *See* 18 U.S.C. § 1839(3); *Masimo Corp. v. True Wearables Inc.*, No. SACV 18-2001 JVS(JDex), 2021 WL 2548690, *3-4 (C.D. Cal. Apr. 28, 2021) (discussing “readily ascertainable” requirement in DTSA). Mr. Ding intends to use the documents to rebut any showing by the government that the alleged trade secrets are not known, or readily ascertainable through proper means by showing that information contained in the alleged trade secrets was available from public sources, including from Google itself. Mr. Ding would be severely prejudiced if he were not allowed to present such evidence through his expert, and the government’s assertions were to go un rebutted. *See, e.g., United States v. Morales*, 108 F.3d 1031, 1040 (9th Cir. 1997) (holding that exclusion of defendant’s expert was not harmless error); *see also United States v. Lopez*, 913 F.3d 807, 825 & n.8 (9th Cir. 2019) (holding that “the exclusion of evidence offered by the defendant in a criminal prosecution under Rule 403 is ‘an extraordinary remedy to be used sparingly’”).

Second, a number of these documents are used by Defendant’s expert to show publicly available alternatives to technology described in the alleged trade secrets, which in turn goes to rebut the government’s showing that the alleged trade secrets have independent economic value. *See* 18 U.S.C. § 1839(3). Factors relevant to independent economic value include the extent to

¹ The list of references below has been considerably reduced from that presented in Defendant’s Motions in Limine 22-25. Those references included background materials, and references showing that the technology in general has been known for many years. The revised list below focuses on the narrower list of trade-secret documents provided by the government on December 15, 2025.

1 which a trade secret owner obtained competitive advantage from the alleged trade secrets being
2 secret, and the extent to which others could have obtained economic value from the alleged trade
3 secrets if they were not secret. *See, e.g., Sysco Machinery Corp. v. DCS USA Corp.*, 143 F.4th 222,
4 228 (4th Cir. 2025) (“The reasonable secrecy requirement is linked to the economic value
5 requirement because the information’s value ‘lies in the competitive advantage other others that
6 [the plaintiff] enjoys by virtue of its exclusive access’ to it.” (quoting *Ruckelshaus v. Monsanto*
7 *Co.*, 467 U.S. 986, 1012 (1984))); *Copart, Inc. v. Sparta Consulting, Inc.*, 277 F. Supp. 3d 1127,
8 1153 (E.D. Cal. 2017) (noting that under CUTSA, trade secret information is valuable because it is
9 unknown to others). The availability of publicly available technological alternatives and
10 equivalents to the alleged trade secrets, cuts against any showing that the trade secret owner
11 obtained a competitive advantage from keeping the trade secret confidential, or that competitors
12 would have benefitted from the use of those alleged trade secrets.

13 Furthermore, these public disclosures and publicly available alternatives are relevant to the
14 question of intent – because technological alternatives were publicly available in the market, the
15 motivation to take and use the alleged trade secrets is less likely to be true. *See* 18 U.S.C. § 1832
16 (whosoever . . . intending or knowing that the offense will injure any owner of the trade secret . .
17 .). Where the alleged trade secret information is known, or where reasonable alternatives exist, the
18 inference of intent is weakened.

19 Finally, the government and its expert’s mere disagreement about the relevance of these
20 documents is not grounds to exclude them or to preclude Mr. Ding’s expert from being able to
21 testify about them. The standard under Fed. R. Evid. 401 is simply that the evidence “has a
22 tendency to make a fact more or less probable than it would be without the evidence.” The publicly
23 available documents and information tend to make each of the government’s factual assertions
24 about the alleged trade secrets less probable, by showing that they were, at least in part, publicly
25 available.

26 And moreover, the requirements regarding expert testimony under Fed. R. Evid. 702 and
27 703 are that such testimony must be relevant and reliable. Reliability does not require
28 “demonstrat[ing] to the judge by a preponderance of the evidence that the assessments of their

experts are correct, they only have to demonstrate by a preponderance of the evidence that their opinions are reliable.” Fed. R. Evid. 702 advisory committee’s note 1 to 2023 amendment (citations omitted). As shown in the table below, the documents that Mr. Ding seeks to admit are relevant, and any disagreement by the government or its experts is properly explored by cross-examination, not by exclusion. *See Primiano v. Cook*, 598 F.3d 558, 564 (9th Cir. 2010) (“Shaky but admissible evidence is to be attacked by cross examination, contrary evidence, and attention to the burden of proof, not exclusion.”).

II. EXPLANATION OF RELEVANCE

Defendant provides the following chart explaining the relevance of the public documents that he seeks to admit.

Exhibit No.	Title	Explanation
5109	The RISC-V Instruction Set Manual, Volume I: UserLevel ISA, Version 2.1	[REDACTED]

Exhibit No.	Title	Explanation
5116	Computer Architecture: A Quantitative Approach	[REDACTED]
5119	Nvidia PARALLEL THREAD EXECUTION ISA Application Guide v7.0	[REDACTED]

Exhibit No.	Title	Explanation
5140	Efficient RDMA Communication Protocols	[REDACTED]
5142	Nvidia PARALLEL THREAD EXECUTION ISA Application Guide v8.0	[REDACTED]


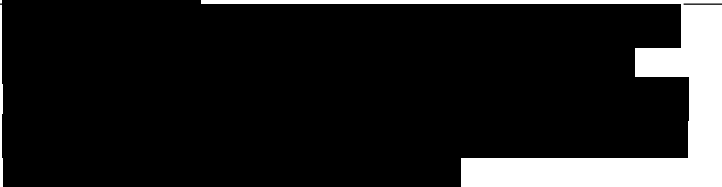
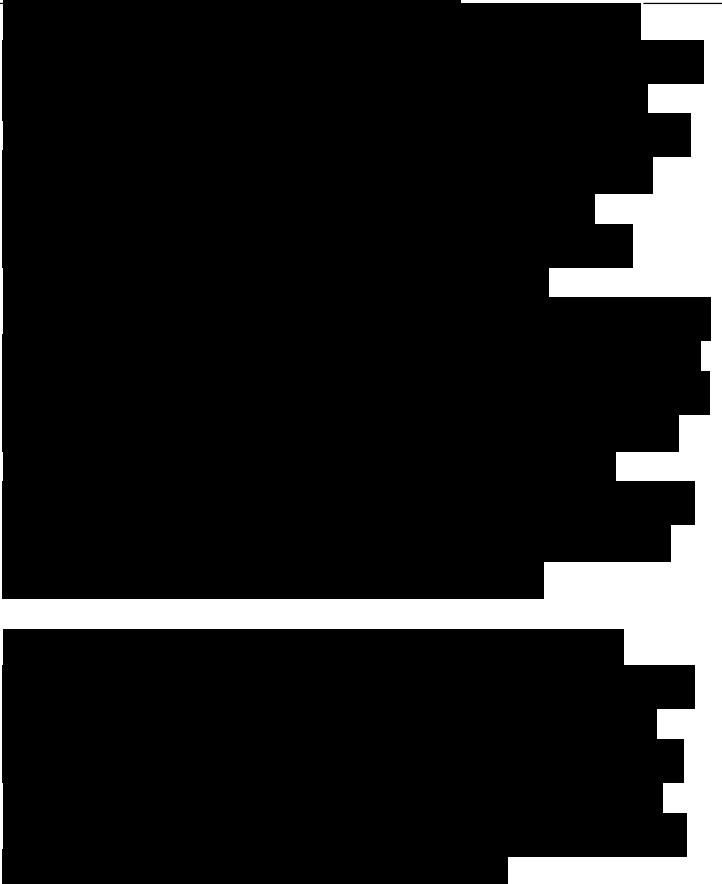
Exhibit No.	Title	Explanation
		
5146	Google's Cloud TPU v4 provides exaFLOPS-scale ML with industry-leading efficiency	
5161	TPU v4 Guide	


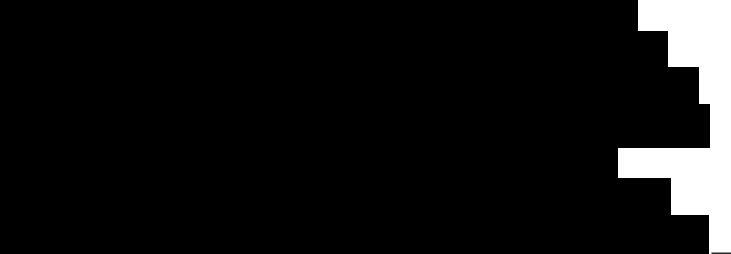


Exhibit No.	Title	Explanation
5162	TPU v5e Guide	
5164	TPU v6e Guide	
5165	Introduction to Cloud TPUs	
5166	TPU Architecture	

Exhibit No.	Title	Explanation
5173	Introduction to InfiniBand	<div data-bbox="776 268 1502 751">[REDACTED]</div> <div data-bbox="776 779 1502 1157">[REDACTED]</div> <div data-bbox="776 1184 1502 1318">[REDACTED]</div>
5183	TPUv4: An optically reconfigurable supercomputer for machine learning with hardware support for embeddings	<div data-bbox="776 1333 1502 1726">[REDACTED]</div>

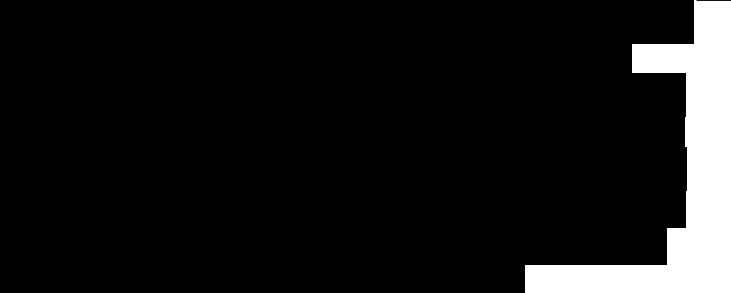

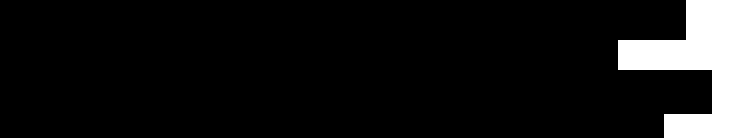
Exhibit No.	Title	Explanation
5402	Enabling next-generation AI workloads: Announcing TPU v5p and AI Hypercomputer	
5547	CN115244909A	
5555	CN118633081A	

Exhibit No.	Title	Explanation
		[REDACTED]
5565	EP3941007A1	[REDACTED]

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Exhibit No.	Title	Explanation
		
5566	EP4145803A1	

Exhibit No.	Title	Explanation
5567	EP4407911A2	
5568	TWI664587B	
5578	US11042416	
5579	US11516087B2	

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Exhibit No.	Title	Explanation
		
5590	US20210185139A1	
5598	US20220382783A1	

Exhibit No.	Title	Explanation
5599	US20230062889A1	
5609	NVIDIA DGX SuperPOD Data Center Design – Reference Guide	

Exhibit No.	Title	Explanation

III. CONCLUSION

Defendant Linwei Ding respectfully requests that the Court grant his Motions in Limine Nos. 22-25 as to the documents listed above.

Respectfully submitted,

Dated: January 5, 2026

By: /s/ Rachel M. Walsh

GRANT P. FONDO (SBN 181530)

GFondo@goodwinlaw.com

DARRYL M. WOO (SBN 100513)

DWoo@goodwinlaw.com

RACHEL M. WALSH (SBN 250568)

RWalsh@goodwinlaw.com

JESSICA HUANG FUZELLIER (SBN 315208)

JHFuzellier@goodwinlaw.com

FARZAD FEYZI (SBN 343538)

FFeyzi@goodwinlaw.com

DAVID RAPP-KIRSHNER (SBN 344494)

DRappKirshner@goodwinlaw.com

NIRAV BHARDWAJ (SBN 350829)

NBhardwaj@goodwinlaw.com

NICHOLAS C. WILEY (SBN 351161)

NWiley@goodwinlaw.com

COLETTE A. LOWRY (SBN 359889)

CLowry@goodwinlaw.com

GOODWIN PROCTER LLP

LORA J. KRSULICH (SBN 315399)

LKrsulich@goodwinlaw.com

GOODWIN PROCTER LLP

601 S. Figueroa Street, Suite 4100

Los Angeles, CA 90017

Tel.: +1 213 426 2500

Fax: +1 213 623 1673

Attorneys for Defendant

LINWEI DING

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Northern District of California by using the CM/ECF system on **January 5, 2026**. I further certify that all participants in the case are registered CM/ ECF users and that service will be accomplished by the CM/ECF system.

I certify under penalty of perjury that the foregoing is true and correct. Executed on **January 5, 2026**.

/s/ Rachel M. Walsh
RACHEL M. WALSH